

House Bill 80

By: Representative Rice of the 95th

A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to revise provisions of law regarding state and local title ad valorem tax fees; to revise definitions regarding such fees; to revise the time for submitting such fees and penalties for failure to submit such fees timely; to provide for the payment of such fees over time in certain circumstances; to clarify the provisions of law regarding rental motor vehicles; to extend the period of time which a loaner vehicle may be removed from inventory; to provide for a title ad valorem tax fee for leased vehicles; to clarify the provisions of law regarding the application of title ad valorem tax fees to certain title transactions; to provide for motor vehicles titled in other states but based in this state; to exclude the application of certain sales and use taxes to motor vehicle sales; to provide that no sales and use taxes shall be imposed upon state and local title ad valorem tax fees imposed as a part of the purchase price of a motor vehicle or as a part of payments under a finance arrangement with the dealer for the purchase of the motor vehicle; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-5C-1, relating to definitions, exemption from taxation, allocation and disbursement of proceeds collected by tag agents, fair market value of vehicle appealable, and reports, as follows:

"48-5C-1.

(a) As used in this Code section, the term:

(1) 'Fair market value of the motor vehicle' means:

(A) ~~The~~ For a used motor vehicle, the retail selling price or, in the case of a lease of a used motor vehicle, the agreed upon value of the vehicle pursuant to the lease agreement, including labor, freight, delivery, and similar charges and dealer add-ons

and mark-ups, excluding any rebate; any reduction for the trade-in value of another motor vehicle; any extended warranty or maintenance agreement itemized on the dealer's invoice to the customer; any finance, insurance, and interest charges for deferred payments billed separately; and any cash discounts provided by the selling dealer and taken at the time of sale, or the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner in determining the taxable value of a motor vehicle under Code Section 48-5-442, whichever is greater;

(B) For a used motor vehicle which is not so listed in such current motor vehicle ad valorem assessment manual, the value from the bill of sale or the value from a reputable used car market guide designated by the commissioner, whichever is greater, and, in the case of a used car dealer, excluding any reduction for the trade-in value of another motor vehicle; or

~~(C) The fair market value determined by the state revenue commissioner from the bill of sale of a new motor vehicle for which there is no value under subparagraph (A) of this paragraph~~ For a new motor vehicle, the retail selling price or, in the case of a lease of a new motor vehicle, the agreed upon value of the vehicle pursuant to the lease agreement, including labor, freight, delivery, and similar charges and dealer add-ons and mark-ups, less excluding any rebate; and before any reduction for the trade-in value of another motor vehicle; any extended warranty or maintenance agreement itemized on the dealer's invoice to the customer; any finance, insurance, and interest charges for deferred payments billed separately; and any cash discounts provided by the selling dealer and taken at the time of sale, or the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner in determining the taxable value of a motor vehicle under Code Section 48-5-442, whichever is greater.

(2) 'Immediate family member' means spouse, parent, child, sibling, grandparent, or grandchild.

(3) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no charge for a period not to exceed 30 days within a calendar year to any one customer whose motor vehicle is being serviced by such dealer.

(4) 'Rental charge' means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not

limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales and use taxes.

(5) 'Rental motor vehicle' means a motor vehicle designed to carry ~~ten~~ 44 or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver.

(6) 'Rental motor vehicle concern' means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

(7) 'Trade-in value' means the value of the motor vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.

(b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which a title is issued in this state on or after March 1, 2013, shall be exempt from sales and use taxes to the extent provided under paragraph ~~(92)~~ (95) of Code Section 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of ~~Title 48~~ this title. Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be subject to a state title fee and a local title fee which shall be alternative ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution. Motor vehicles titled and registered under the International Registration Plan shall not be subject to state and local title ad valorem tax fees but shall continue to be subject to apportioned ad valorem taxation under Article 10 of Chapter 5 of this title.

(B)(i) As used in this subparagraph, the term:

(I) 'Local base amount' means \$1 billion.

(II) 'Local current collection amount' means the total amount of sales and use taxes on the sale of motor vehicles under Chapter 8 of this title and motor vehicle local ad valorem tax proceeds ~~collected~~ which were collected under this Code section and Chapter 5 of this title during the calendar year which immediately precedes the tax year in which the title ad valorem tax adjustments are required to be made under this subparagraph.

(III) 'Local target collection amount' means an amount equal to the local base amount added to the product of 2 percent of the local base amount multiplied by the number of years since 2012 with a maximum amount of \$1.2 billion.

(IV) 'State base amount' means \$535 million.

(V) 'State current collection amount' means the total amount of sales and use taxes on the sale of motor vehicles under Chapter 8 of this title and motor vehicle state ad

valorem tax proceeds ~~collected~~ under this Code section and Chapter 5 of this title which were collected during the calendar year which immediately precedes the tax year in which the state and local title ad valorem tax rate is to be reviewed for adjustment under division (xiv) of this subparagraph. Notwithstanding the other provisions of this subdivision to the contrary, the term 'state current collection amount' for the 2014 calendar year for the purposes of the 2015 review under division (xiv) of this subparagraph shall be adjusted so that such amount is equal to the amount of motor vehicle state ad valorem tax proceeds that would have been collected under this Code section in 2014 if the combined state and local title ad valorem tax rate was 7 percent of the fair market value of the motor vehicle less any trade-in value plus the total amount of motor vehicle state ad valorem tax proceeds collected under Chapter 5 of this title during 2014.

(VI) 'State target collection amount' means an amount equal to the state base amount added to the product of 2 percent of the state base amount multiplied by the number of years since 2012.

(ii) The combined state and local title ad valorem tax shall be at a rate equal to:

(I) For the period commencing March 1, 2013, through December 31, 2013, 6.5 percent of the fair market value of the motor vehicle ~~less any trade-in value~~;

(II) For the 2014 tax year, 6.75 percent of the fair market value of the motor vehicle ~~less any trade-in value~~; and

(III) Except as provided in division (xiv) of this subparagraph, for the 2015 and subsequent tax years, 7 percent of the fair market value of the motor vehicle ~~less any trade-in value~~.

(iii) For the period commencing March 1, 2013, through December 31, 2013, the state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.

(iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of

the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in division (ii) of this subparagraph.

(vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division (ii) of this subparagraph.

(viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this subparagraph.

(ix) For the 2019 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 36 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 64 percent of the tax rate specified in division (ii) of this subparagraph.

(x) For the 2020 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this subparagraph.

(xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 30 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this subparagraph.

(xii) For the 2022 and all subsequent tax years, except as otherwise provided in division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

(xiii) Beginning in 2016, by not later than January 15 of each tax year through the 2022 tax year, the state revenue commissioner shall determine the local target collection amount and the local current collection amount for the preceding calendar

year. If such local current collection amount is equal to or within 1 percent of the local target collection amount, then the state title ad valorem tax rate and the local title ad valorem tax rate for such tax year shall remain at the rate specified in this subparagraph for that year. If the local current collection amount is more than 1 percent greater than the local target collection amount, then the local title ad valorem tax rate for such tax year shall be reduced automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the local current collection amount would have produced an amount equal to the local target collection amount, and the state title ad valorem tax rate for such tax year shall be increased by an equal amount to maintain the combined state and local title ad valorem tax rate at the rate specified in division (ii) of this subparagraph. If the local current collection amount is more than 1 percent less than the local target collection amount, then the local title ad valorem tax rate for such tax year shall be increased automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the local current collection amount would have produced an amount equal to the local target collection amount, and the state title ad valorem tax rate for such tax year shall be reduced by an equal amount to maintain the combined state and local title ad valorem tax rate at the rate specified in division (ii) of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by not later than January 31 of such tax year, the state revenue commissioner shall notify the tax commissioner of each county in this state of the adjusted rate amounts. The effective date of such adjusted rate amounts shall be January 1 of such tax year.

(xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax year, the state revenue commissioner shall determine the state target collection amount and the state current collection amount for the preceding calendar year. If such state current collection amount is greater than, equal to, or within 1 percent of the state target collection amount after making the adjustment, if any, required in division (xiii) of this subparagraph, then the combined state and local title ad valorem tax rate provided in division (ii) of this subparagraph shall remain at the rate specified in such division. If the state current collection amount is more than 1 percent less than the state target collection amount after making the adjustment, if any, required by division (xiii) of this subparagraph, then the combined state and local title ad valorem tax rate provided in division (ii) of this subparagraph shall be increased automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the state current collection amount would have produced an amount equal to the state

target collection amount, and the state title ad valorem tax rate and the local title ad valorem tax rate for the tax year in which such increase in the combined state and local title ad valorem tax rate shall become effective shall be adjusted from the rates specified in this subparagraph or division (xiii) of this subparagraph for such tax year such that the proceeds from such increase in the combined state and local title ad valorem tax rate shall be allocated in full to the state. If the state current collection amount is more than 2 percent more than the state target collection amount after making the adjustment, if any, required by division (xiii) of this subparagraph, then the combined state and local title ad valorem tax rate provided in division (ii) of this subparagraph shall be decreased automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the state current collection amount would have produced an amount equal to the state target collection amount, and the state title ad valorem tax rate and the local title ad valorem tax rate for the tax year in which such decrease in the combined state and local title ad valorem tax rate shall become effective shall be adjusted from the rates specified in this subparagraph or division (xiii) of this subparagraph for such tax year such that such decrease in the combined state and local title ad valorem tax rate shall be allocated in full to the state. In the event of an adjustment of the combined state and local title ad valorem tax rate, by not later than August 31 of such tax year, the state revenue commissioner shall notify the tax commissioner of each county in this state of the adjusted combined state and local title ad valorem tax rate for the next calendar year. The effective date of such adjusted combined state and local title ad valorem tax rate shall be January 1 of the next calendar year. Notwithstanding the provisions of this division, the combined state and local title ad valorem tax rate shall not be less than 6 percent nor exceed 9 percent.

(xv) The state revenue commissioner shall promulgate such rules and regulations as may be necessary and appropriate to implement and administer this Code section, including, but not limited to, rules and regulations regarding appropriate public notification of any changes in rate amounts and the effective date of such changes and rules and regulations regarding appropriate enforcement and compliance procedures and methods for the implementation and operation of this Code section.

(C) The application for title and the state and local title ad valorem tax fees provided for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county ~~in which the purchaser registers such motor vehicle~~ where the motor vehicle is to be registered and shall be paid at the time ~~the purchaser applies for a title and registers such motor vehicle~~ the application for a certificate of title is submitted or, in the case

of an electronic title transaction, at the time when the electronic title transaction is finalized. In an electronic title transaction, the state and local title ad valorem tax fees shall be remitted electronically directly to the county tag agent by the department or an authorized agent of the department. A dealer of new or used motor vehicles may accept such application for title and state and local title ad valorem tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of ~~delivering~~ submitting or, in the case of an electronic title application, finalizing such title application and remitting state and local title ad valorem tax fees to the county tag agent to obtain a tag and title for the purchaser of such motor vehicle.

(D) There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any information in any bill of sale used for purposes of determining the fair market value of the motor vehicle. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the commissioner. Such determination shall be made within 60 days of the commissioner receiving information of a possible violation of this paragraph.

(E)(i) During the period from March 1, 2013, through June 30, 2013, except in the case in which an extension of the registration period has been granted by the county tag agent under Code Section 40-2-20, a ~~A~~ dealer of new or used motor vehicles that accepts an application for title and state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and does not ~~transmit~~ submit or, in the case of an electronic title transaction, finalize such application for title and remit such state and local title ad valorem tax fees to the county tag agent within 10 days following the date of purchase shall be liable to the county tag agent for an amount ~~equal to 5 percent of the amount of such state and local title ad valorem tax fees of \$10.00.~~ An additional penalty of \$25.00 shall be imposed if such payment is not transmitted within 30 days following the date of purchase. An additional 5-percent penalty of \$50.00 shall be imposed if such payment is not transmitted within 60 days following the date of purchase and a penalty of \$100.00 for each subsequent month 30 day period in which the payment is not transmitted.

(ii) On and after July 1, 2013, except in the case in which an extension of the registration period has been granted by the county tag agent under Code Section 40-2-20, a dealer of new or used motor vehicles that accepts an application for title and state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and does not submit or, in the case of an electronic title transaction, finalize such application for title and remit such state and local title ad valorem tax fees to the county tag agent within 30 days following the date of purchase shall be liable to the county tag agent for an amount of \$25.00. An additional penalty of

\$50.00 shall be imposed if such payment is not transmitted within 60 days following the date of purchase and a penalty of \$100.00 for each subsequent 30 day period in which the payment is not transmitted.

(F) A dealer of new or used motor vehicles that accepts an application for title and state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and converts such fees to his or her own use shall be guilty of theft by conversion and, upon conviction, shall be punished as provided in Code Section 16-8-12.

(G)(i) During the period beginning March 1, 2013, through June 30, 2013, a dealer of used motor vehicles that directly finances the sale of a used motor vehicle shall pay the full amount of the state and local title ad valorem tax fees due at the time of the sale of the motor vehicle.

(ii) During the period beginning July 1, 2013, through February 28, 2014, a dealer of used motor vehicles that directly finances the sale of a used motor vehicle and that has registered with the department in accordance with the provisions of this subparagraph may elect to pay the state and local title ad valorem tax fees due on the sale of such motor vehicle by paying an initial payment of 50 percent of the amount of the state and local title ad valorem tax fees at the time of the sale of the motor vehicle and paying the remaining 50 percent of the amount of the state and local title ad valorem tax fees 12 months after the sale of the motor vehicle.

(iii) Beginning March 1, 2014, a dealer of used motor vehicles that directly finances the sale of a used motor vehicle and that has registered with the department may elect to pay the state and local title ad valorem tax fees due on the sale of such motor vehicle by paying an initial payment of 20 percent of the amount of the state and local title ad valorem tax fees at the time of the sale of the motor vehicle, paying 30 percent of the amount of the state and local title ad valorem tax fees 12 months after the sale of the motor vehicle, and paying the remainder of the amount of the state and local title ad valorem tax fees 24 months after the sale of the motor vehicle; provided, however, that in no event shall such payments extend beyond the term of the financing agreement.

(iv) The department shall impose an annual registration fee of \$100.00 on such dealers that directly finance the sale of used motor vehicles. In such case, the department shall retain the title of such motor vehicle until such state and local ad valorem tax fees are paid in full. In the event that the purchaser defaults under the financing agreement and the dealer retakes possession of the motor vehicle, the dealer shall pay the remaining amount of the state and local title ad valorem tax fees within 30 days of retaking possession of the motor vehicle and, upon the submission

of the appropriate application, documentation, and all applicable fees, the department shall issue the title for the motor vehicle to the dealer.

(2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(c)(1) The amount of proceeds collected by tag agents each month as state and local title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest pursuant to subsection (b) of this Code section shall be allocated and disbursed as provided in this subsection.

(2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall be disbursed within 30 days following the end of each calendar month as follows:

(A) State title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest shall be remitted to the state revenue commissioner who shall deposit such proceeds in the general fund of the state less an amount to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. Such retained amount shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 30 day period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40; and

(B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be designated as local government ad valorem tax funds. The tag agent shall then distribute the proceeds as specified in paragraph (3) of this subsection.

(3) The local title ad valorem tax fee proceeds required under this subsection shall be distributed as follows:

(A) The tag agent of the county shall within 30 days following the end of each calendar month allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county an amount of those proceeds necessary to offset any reduction in ad valorem tax on motor vehicles collected under Chapter 5 of ~~Title 48~~ this title in the taxing jurisdiction of each governing authority and school district from the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of ~~Title 48~~ this title in each such governing authority and school district during the same calendar month of 2012. This reduction shall be

359 calculated by subtracting the amount of ad valorem tax on motor vehicles collected
360 under Chapter 5 of ~~Title 48~~ this title in each such taxing jurisdiction from the amount
361 of ad valorem tax on motor vehicles collected under Chapter 5 of ~~Title 48~~ this title in
362 that taxing jurisdiction in the same calendar month of 2012. In the event that the local
363 title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad
364 valorem taxes on motor vehicles, the tag agent shall allocate a proportionate amount of
365 the proceeds to each governing authority and to the board of education of each such
366 school district, and any remaining shortfall shall be paid from the following month's
367 local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag
368 agent shall continue to first allocate local title ad valorem tax fee proceeds to offset
369 such shortfalls until the shortfall has been fully repaid; and

370 (B) Of the proceeds remaining following the allocation and distribution under
371 subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the
372 county governing authority and to municipal governing authorities, the board of
373 education of the county school district, and the board of education of any independent
374 school district located in such county the remaining amount of those proceeds in the
375 manner provided in this subparagraph. Such proceeds shall be deposited in the general
376 fund of such governing authority or board of education and shall not be subject to any
377 use or expenditure requirements provided for under any of the following described local
378 sales and use taxes but shall be authorized to be expended in the same manner as
379 authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of ~~Title~~
380 ~~48~~ this title which would otherwise have been collected for such governing authority
381 or board of education. Of such remaining proceeds:

382 (i) An amount equal to one-third of such proceeds shall be distributed to the board
383 of education of the county school district and the board of education of each
384 independent school district located in such county in the same manner as required for
385 any local sales and use tax for educational purposes levied pursuant to Part 2 of
386 Article 3 of Chapter 8 of ~~Title 48~~ this title currently in effect. If such tax is not
387 currently in effect, such proceeds shall be distributed to such board or boards of
388 education in the same manner as if such tax were in effect;

389 (ii)(I) Except as otherwise provided in this division, an amount equal to one-third
390 of such proceeds shall be distributed to the governing authority of the county and
391 the governing authority of each qualified municipality located in such county in the
392 same manner as specified under the distribution certificate for the joint county and
393 municipal sales and use tax under Article 2 of Chapter 8 of ~~Title 48~~ this title
394 currently in effect.

(II) If such tax were never in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(III) If such tax is currently in effect as well as a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment, an amount equal to one-third of such proceeds shall be distributed in the same manner as required under subdivision (I) of this division and an amount equal to one-third of such proceeds shall be distributed to the board of education of the county school district.

(IV) If such tax is not currently in effect and a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment is currently in effect, such proceeds shall be distributed to the board of education of the county school district and the board of education of any independent school district in the same manner as required under that local constitutional amendment.

(V) If such tax is not currently in effect and a homestead option sales and use tax under Article 2A of Chapter 8 of ~~Title 48~~ this title is in effect, such proceeds shall be distributed to the governing authority of the county, each qualified municipality, and each existing municipality in the same proportion as otherwise required under Code Section 48-8-104; and

(iii)(I) An amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under an intergovernmental agreement or as otherwise required under the county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of ~~Title 48~~ this title currently in effect; provided, however, that this subdivision shall not apply if subdivision (III) of division (ii) of this subparagraph is applicable.

(II) If such tax were in effect but expired and is not currently in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as if such tax were still in effect according to the intergovernmental agreement or as otherwise required under the county special purpose local sales and use tax under Part 1 of Article 3 of Chapter 8 of ~~Title 48~~ this title for the 12 month period commencing at the expiration of such tax. If such tax is not renewed prior to the expiration of such 12 month period, such amount shall be distributed in accordance with subdivision (I) of division (ii) of this subparagraph; provided, however, that if a tax under Article 2 of Chapter 8 of ~~Title 48~~ this title is not in

effect, such amount shall be distributed in accordance with subdivision (II) of division (ii) of this subparagraph.

(III) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds shall be distributed to the governing body of the authority created by local Act to operate such metropolitan area system of public transportation.

(IV) If such tax were never in effect, such proceeds shall be distributed in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of ~~Title 48~~ this title currently in effect; provided, however, that if such tax under such article is not in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(d)(1)(A) Upon the death of an owner of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of ~~Title 48~~ this title and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the death of an owner of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(2)(A) Upon the transfer from an immediate family member of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members who receive such motor vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of ~~Title 48~~ this title and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the transfer from an immediate family member of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member who receives such motor vehicle shall transfer title of such motor vehicle to such recipient family member and shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(C) Any title transfer under this paragraph shall be accompanied by an affidavit of the transferor and transferee that such persons are immediate family members to one another. There shall be a penalty imposed on any person who, in the determination of the state revenue commissioner, falsifies any material information in such affidavit. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such determination shall be made within 60 days of the state revenue commissioner receiving information of a possible violation of this paragraph.

(3) Any individual who:

(A) Is required by law to register a motor vehicle or motor vehicles in this state which were registered in the state in which such person formerly resided; and

(B) Is required to file an application for a certificate of title under Code Section 40-3-21 or 40-3-32

shall only be required to pay state and local title ad valorem tax fees in the amount of 50 percent of the amount which would otherwise be due and payable under this subsection at the time of filing the application for a certificate of title, and the remaining 50 percent shall be paid within 12 months.

(4) The state and local title ad valorem tax fees provided for under this Code section shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.

(5) Any motor vehicle subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section shall continue to be subject to the title, license plate, revalidation decal, and registration requirements and applicable fees as otherwise provided in Title 40 in the same manner as motor vehicles which are not subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(6) Motor vehicles owned or leased by or to the state or any county, consolidated government, municipality, county or independent school district, or other government entity in this state shall not be subject to the state and local title ad valorem tax fees provided for under paragraph (1) of subsection (b) of this Code section; provided, however, that such other government entity shall not qualify for the exclusion under this paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to general law.

(7)(A) Any motor vehicle which is exempt from sales and use tax pursuant to paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad valorem tax fees under this subsection.

(B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(8) There shall be a penalty imposed on the transfer of all or any part of the interest in a business entity that includes primarily as an asset of such business entity one or more motor vehicles, when, in the determination of the state revenue commissioner, such transfer is done to evade the payment of state and local title ad valorem tax fees under this subsection. Such penalty shall not exceed \$2,500.00 as a state penalty per motor vehicle and shall not exceed \$2,500.00 as a local penalty per motor vehicle, as determined by the state revenue commissioner, plus the amount of the state and local title ad valorem tax fees. Such determination shall be made within 60 days of the state revenue commissioner receiving information that a transfer may be in violation of this paragraph.

(9) Any owner of any motor vehicle who fails to submit within 30 days of the date such owner is required by law to register such vehicle in this state an application for a first certificate of title under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state

~~title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required under this Code section, plus interest at the rate of 1.0 percent per month \$25.00, unless a temporary permit has been issued by the tax commissioner. An additional penalty of \$50.00 shall be imposed if such application is not submitted within 60 days following the date of purchase and a penalty of \$100.00 for each subsequent 30 day period in which such application is not submitted.~~ The tax commissioner shall grant a temporary permit in the event the failure to timely apply for a first certificate of title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release of a security interest or lien, and no penalty or interest shall be assessed. Such penalty and interest shall be in addition to the penalty and fee required under Code Section 40-3-21 or 40-3-32, as applicable. A new or used motor vehicle dealer shall be responsible for remitting state and local title ad valorem tax fees in the same manner as otherwise required of an owner under this paragraph and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of this paragraph.

(10) The owner of any motor vehicle ~~purchased in this state~~ for which a title was issued in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized to opt in to the provisions of this subsection at any time prior to January 1, 2014, upon compliance with the following requirements:

(A)(i) The total amount of Georgia state and local title ad valorem tax fees which would be due from March 1, 2013, to December 31, 2013, if such vehicle had been titled in 2013 shall be determined; and

(ii) The total amount of Georgia state and local sales and use tax and Georgia state and local ad valorem tax under Chapter 5 of ~~Title 48~~ this title which were due and paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes which were due and paid for that motor vehicle in 2013 shall be determined; and

(B)(i) If the amount derived under division (i) of subparagraph (A) of this paragraph is greater than the amount derived under division (ii) subparagraph (A) of this paragraph, the owner shall remit the difference to the tag agent. Such remittance shall be deemed local title ad valorem tax fee proceeds; or

(ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is less than the amount derived under division (ii) of subparagraph (A) of this paragraph, no additional amount shall be due and payable by the owner.

Upon certification by the tag agent of compliance with the requirements of this paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise required under Chapter 5 of ~~Title 48~~ this title in the same manner as otherwise provided in paragraph (1) of subsection (b) of this Code section.

(11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern, the state title ad valorem tax fee shall be in an amount equal to .75 percent of the fair market value of the motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to .75 percent of the fair market value of the motor vehicle, but only if in the immediately prior calendar year the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was at least \$400.00 as certified by the state revenue commissioner. If, in the immediately prior calendar year, the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was not at least \$400.00, this paragraph shall not apply and such vehicles shall be subject to the state and local title ad valorem tax fees prescribed in division (b)(1)(B)(ii) of this Code section.

(B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section for a period of time not to exceed ~~six months in a calendar~~ one year commencing on the date such loaner vehicle is withdrawn temporarily from inventory. Immediately upon the expiration of such ~~six-month~~ one-year period, if the dealer does not return the loaner vehicle to inventory for resale, the dealer shall be responsible for remitting state and local title ad valorem tax fees in the same manner as otherwise required of an owner under paragraph (9) of this subsection and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of paragraph (9) of this subsection.

(13) Any motor vehicle which is donated to a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being transferred to another person shall, when titled in the name of such nonprofit organization, not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section but shall be subject to state and local title ad valorem tax fees otherwise applicable to salvage titles under paragraph (2) of subsection (b) of this Code section.

(14)(A) Notwithstanding the provisions of division (b)(1)(B)(ii) of this Code section, in the case of motor vehicles that are leased for more than 31 consecutive days by lessors who have registered with the department in accordance with this paragraph, the state and local title ad valorem tax fee shall be in an amount equal to 4 percent of the fair market value of the motor vehicle which shall be apportioned between state and local title ad valorem tax fees as provided in divisions (b)(1)(B)(iii) through (b)(1)(B)(xii) of this Code section.

615 (B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized
616 by Article VII, Section I, Paragraph III(b)(3) of the Constitution.

617 (C) A lessor of motor vehicles under this paragraph that leases motor vehicles to
618 lessees residing in this state shall register with the department. The department shall
619 collect an annual fee of \$100.00 for such registrations. Failure of a lessor to register
620 under this subparagraph shall subject such lessor to a civil penalty of \$2,500.00.

621 (D) A lessee residing in this state who leases a motor vehicle under this paragraph shall
622 register such motor vehicle with the tag agent in such lessee's county of residence
623 within 30 days of the commencement of the lease of such motor vehicle or beginning
624 residence in this state, whichever is later.

625 (E) A lessor that leases a motor vehicle under this paragraph to a lessee residing in this
626 state shall apply for a certificate of title in this state within 30 days of the
627 commencement of the lease of such motor vehicle.

628 (15) There shall be no liability for any additional state or local title ad valorem tax fees
629 in any of the following title transactions:

630 (A) The addition or substitution of lienholders on a motor vehicle title so long as the
631 owner of the motor vehicle remains the same;

632 (B) The acquisition of a bonded title by a person or entity pursuant to Code
633 Section 40-3-28 if the title is to be issued in the name of such person or entity;

634 (C) The acquisition of a title to a motor vehicle by a person or entity as a result of the
635 foreclosure of a mechanic's lien pursuant to Code Section 40-3-54 if such title is to be
636 issued in the name of such lienholder;

637 (D) The acquisition of a title to an abandoned motor vehicle by a person or entity
638 pursuant to Chapter 11 of this title if such person or entity is a manufacturer or dealer
639 of motor vehicles and the title is to be issued in the name of such person or entity;

640 (E) The obtaining of a title to a stolen motor vehicle by a person or entity pursuant to
641 Code Section 40-3-43;

642 (F) The obtaining of a title by and in the name of a motor vehicle manufacturer,
643 licensed dealer, or licensed rebuilder for the purpose of resale or to obtain a corrected
644 title, provided that the manufacturer, dealer, or rebuilder shall submit an affidavit in a
645 form promulgated by the commissioner attesting that the transfer of title is for the
646 purpose of accomplishing a resale or to correct a title only;

647 (G) The obtaining of a title by and in the name of the holder of a security interest when
648 a motor vehicle has been repossessed after default in accordance with Part 6 of Article 9
649 of Title 11 if such title is to be issued in the name of such security interest holder;
650 provided, however, that dealers that directly finance the sale of used motor vehicles
651 shall be subject to subparagraph (b)(1)(G) of this Code section; and

(H) The obtaining of a title by a person or entity for purposes of correcting a title, changing an odometer reading, or removing an odometer discrepancy legend, provided that, subject to subparagraph (F) of this paragraph, title is not being transferred to another person or entity.

(16) It shall be unlawful for a person to fail to obtain a title for and register a motor vehicle in accordance with the provisions of this chapter. Any person who knowingly and willfully fails to obtain a title for or register a motor vehicle in accordance with the provisions of this chapter shall be guilty of a misdemeanor.

(e) The fair market value of any motor vehicle subject to this Code section shall be appealable in the same manner as otherwise authorized for a motor vehicle subject to ad valorem taxation under Code Section 48-5-450.

(f) Beginning in 2014, on or before January 31 of each year, the department shall provide a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee showing the state and local title ad valorem tax fee revenues collected pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant to Chapter 5 of this title during the preceding calendar year."

SECTION 2.

Said title is further amended by revising paragraph (95) of Code Section 48-8-3, relating to exemptions from state sales and use taxes, as follows:

"(95) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5C-1. This exemption shall not apply to ~~leases~~ monthly lease payments or rentals of motor vehicles ~~or to those sales and use taxes collected pursuant to subsection (d) of Code Section 48-8-241.~~ No sales and use taxes shall be imposed upon state and local title ad valorem tax fees imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor vehicle, as a part of payments under a finance arrangement with the dealer for the purchase of the motor vehicle, or any portion of a lease or rental payment that is attributable to payment of state and local title ad valorem tax fees under Chapter 5C of this title."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.